

SECTION 2

FORMAT AND ORGANIZATION

PLANNING

Before you begin to write, plan your writing. Answering the following questions may help you get started:

SCOPE AND POLICY

1. What is the overall message that the agency wants to convey?
2. What are the scope and purpose of a rule? Scope and purpose are often determined by law. It is important to get agreement on the objective before writing begins. If you are writing a rule for a new program, however, many decisions need to be made on what the agency wants to cover in the rules and what the requirements will be. Decide what, if anything, should not be included in the rules. Writing a rule is difficult enough if you know what it is you must say. But if the policy is not clear to you, writing clearly will be impossible.

PURPOSES

Rules must reflect statutory intent and be legally accurate, because they need to be enforceable in a court of law. Rules must also communicate with the public being affected by the rule. In writing a rule, agencies must strike a balance between the information needed by the public and the agency's ability to be effective based upon available resources and practical knowledge.

1. What is the agency trying to achieve by writing these rules?
2. Will the rules be mandatory or will they seek voluntary compliance?
3. Will the rules define a procedure for the public to follow?
4. Will the rules describe various possible circumstances and define what someone must do in each circumstance?

AUDIENCES

1. Who will be regulated by the rules? The audience for the rules will guide the degree of simplicity used. Give consideration to all audiences, present or potential, such as those administering the rule, those affected by the rule, and those who are generally interested in the rule.
2. Who will be reading the rules? In general, it is good to write for the public or an audience that is unfamiliar with the law or subject matter. If rules are clearly written, they should not need to be rewritten for informational brochures or guidebooks. Writing rules the audience can easily follow will save time, money, and legal problems.
3. How will the audience use the rules? Will the rules be used to answer specific questions or problems, for background knowledge, for general reference, or for continuing research? Readers are usually looking for a specific piece of information. Make this information easy to find.

CONSTRAINTS

What limitations are there? Statutory or agency deadlines, budget constraints, and the agency's review process affect the effort that can be put into writing a rule.

SELECTING CONTENT

Include only the content your audience needs. A subject that is adequately covered by statute does not need to be covered by a rule.

ORGANIZING THE RULES

OUTLINE

Start with an outline of major points to cover and number the points in a logical sequence. A single rule should

never address more than one subject. In the terminology of the Code, a Section is defined as a rule.

RULE AS A REFERENCE DOCUMENT

Organize the rule so that information is easy to find. Think of the questions a reader might ask when dealing with the rule.

PROCEDURAL RULES

If the rule is a series of procedures, present them in sequential order, going step-by-step through each procedure. Develop a flow chart of the steps to reveal “holes” in the procedures that can be corrected before the rules are issued. If the procedure is different for different groups of readers, write the rule for each group.

METHODS FOR ORGANIZING MATERIAL INTO RULES

Once the information is gathered and the audience and information importance are determined, analyze the factors affecting how each individual rule should be organized. What factors are most important? Should these be placed first? Or would the rule be more understandable in one of the following methods of organization?

1. General to specific (usually the preferred method).
2. Chronological order (helpful in explaining time relationships).
3. Sequential order.
 - a. Place the actions in order to explain time relationships:

EXAMPLE:

1. The physician shall perform an examination for assessing the medical and physical fitness of the candidates before conducting the physical examination.
2. The candidate shall undergo a physical examination that includes the following:
3. Upon completion of the physical examination, the candidate shall complete a medical examination that includes the following:
4. The Department shall place the name of the candidate who passes the medical and physical examinations on the register for appointment.

- b. Give step-by-step instructions using the “cookbook method”:

EXAMPLE:

To be considered for appointment, an applicant shall:

1. Complete the application form;
2. Attach relevant backup materials;
3. Sign and date the form;
4. Complete the affidavit and have it notarized; and
5. File the above materials with the agency.

TABLE OF CONTENTS

Show organization of the rules by using a table of contents. However, do not include the words “Table of Contents” in the rules when you submit them to the Secretary of State for publication and filing. Section headings should reflect the subject.

DEFINITIONS

WHEN TO USE A DEFINITION

1. Define all terms specific to the rules that are necessary to help a member of the general public read and understand the rule.
2. Define all terms to which you are giving meaning outside of the normal, common meaning of the term.
3. Define all acronyms and shortened forms used in the rule.
4. Define only those terms you actually use in the rules.

PLACEMENT

Definitions of terms or phrases applicable to an entire Chapter should appear in the first Article for the Chapter, usually as the first rule of the Chapter (R__-__-101). Definitions applicable only to a specific Article or Section should appear at the beginning of that Article or Section.

LEAD-IN STATEMENT

1. Introduce definitions without using “shall” as a command.

EXAMPLES:

In this Chapter, unless otherwise specified, the following terms mean:

In addition to the definitions provided in A.R.S. §§ 44-421, 49-521 3-201, 3-231, 3-441 and 3-481, the following definitions apply to this [Chapter, Article, Section]:

2. If you do not include an lead-in statement in your definitions Section, and you choose to label your definitions, you shall label them as first-level subsections (capital letter labels).
3. The Secretary of State’s rules now allow you to leave lists of definitions unlabeled although you must still indent them as if they were labeled.

TERMS DEFINED BY STATUTE

1. If it is necessary to use a term in your rule that has been defined by statute, use the following example.

EXAMPLE: “Person” has the same meaning as prescribed in A.R.S. § 49-701(7).

2. If an agency finds it necessary to include statutory definitions within the text of their rule, the statutory language shall appear in italics, or other distinguishing type if the agency does not have the capability for producing italic type.
3. If several definitions are to be used from a specific statute, note the A.R.S. Section number in the definition lead-in statement. (See LEAD-IN STATEMENT examples.)

ORDER

List definitions in alphabetical order. Alphabetical definitions do not have to be labeled and therefore can be amended easier.

FORMAT

Place terminology being defined in quotations and use the verb “means” to begin each definition.

EXAMPLE:

State Agency Rulewriters Consortium

TERMINOLOGY

1. Use terms already understood to explain the meaning of a defined term. Do not use the term being defined to describe its meaning.
2. Define a term only when it is necessary to make its usage clear and consistent.
3. Use the defined term throughout the rules.

EXAMPLE: Rules governing school buses include a definition of “passenger.” Always refer to a person riding on a school bus as a passenger. Do not refer to a passenger as a “student,” “person,” or “youth.”

4. Define terms so they are mutually exclusive.
5. Do not include regulatory language within the definition.

EXAMPLES:

DON'T SAY:

Only employees in covered positions are eligible to receive on-call duty pay.

On-call duty hours are recorded on the positive Attendance Report (PAR) by entering attendance code “OC” and the number of hours assigned to on-call duty.

On-call duty pay is paid with other earnings in the pay period during which it is earned.

Time spent while assigned to on-call duty is not considered work and is not used to calculate overtime.

SAY:

“On-Call Duty Pay” means a cash payment of \$1.00 per hour for the period of time when an eligible employee is assigned to on-call duty, calculated to the nearest tenth of an hour.

HEADINGS AND SECTIONS

Use a heading for each Section to describe briefly the subject of the Section. Be concise. If the heading is too long or contains different topics, the Section itself is probably too long or too broad and should be broken into two or more Sections. Limit Section headings to ten or fewer words.

SUBSECTIONS

Subsections may be used and are a good idea for long Sections. If a heading is used for one subsection, give headings to all subsections within the Section. (All levels are now called subsections.)

SECTION LENGTH

The use of many short Sections is preferable to a few long ones. Also use short paragraphs and sentences. Include only one or two thoughts in a sentence and a single relationship or thought in a paragraph to avoid ambiguity.